13.(Amended) The textile according to Claim 6, wherein said second yarns comprise a 2200 denier yarn.

14.(Amended) The textile according to Claim 13, wherein the weave density of said second yarn set is about 20 picks per inch.

REMARKS

35 USC Section 112 Rejections:

Applicant has amended claims 7, 13 and 14 to clarify the description of the first and second sets of yarn and to correct dependency of those claims. Applicant submits that these amendments should remove the Examiner's rejections indicated as item #10, 11, and 14 of the Final Office Action.

Referring to claim 1, the phrase "textured polyester yarns with an elastomeric base component" has been rejected by the Examiner for being indefinite. For clarification, the second yarns are comprised of a blend of textured polyester filaments and an elastomeric monofilament. Further clarification is found in U.S Patent No. 5,856,249 to which this application claims priority. In the '249 patent, these second yarns are described in claims 6 and 8 as "said synthetic yarns running in said second direction comprise an elastomeric monofilament." Applicant respectfully believes this clarification should remove the Examiner's rejection stated in item #13 of the Final Office Action.

Priority:

The Examiner contends that Applicant is entitled to claim priority only to U.S. Patent No. 5,856,249. Applicant respectfully submits that the application is entitled to priority of all the earlier applications which resulted in U.S. Patent Nos. 5,807,794, 5,632,526, 5,533,789, and 5,856,249 to the extent that the matter originally disclosed is common with the present invention.

Applicant believes that U.S. Patent No. 5,807,794 adequately discloses an upholstery fabric 28 with elastomeric, UV stabilized warp yarns 20 and polyester weft (or fill) yarns 22. Applicant further submits that the '794 patent teaches the textured polyester yarns having an elastomeric base as recited in claim 6 of the current application. The elastomeric textured polyester yarns are disclosed in the '794 patent in column 4 at lines 28-29 where "the weft insertion yarn is textured polyester" and further down in column 4 at lines 34-45 where "it is contemplated that an elastomeric yarn could be used in both the warp and weft direction." Furthermore, in column 5 at lines 1-3, the '794 patent discloses that "by selection of the appropriate elastomeric yarns 20, such ultraviolet stability can be achieved to a high degree" which describes a further feature of claim 6 of the present application wherein the yarn is UV stabilized.

Applicant respectfully contends that the limitation of "interwoven" in claim 6 of the current application should not limit the priority claim to the earlier filed applications since interwoven, in its broadest meaning, can be interpreted to mean "intertwined." All of the earlier applications Applicant wishes to claim priority to disclose fabrics made from yarns which are intertwined.

Thus, Applicant respectfully submits that because of these common adequately disclosed elements, Applicant is entitled to the priority of the earlier applications resulting in U.S. Patent Nos. 5,807,794, 5,632,526, 5,533,789, and 5,856,249 to the extent that the matter originally disclosed is common with the present invention.

35 USC Section 103 Rejections:

Claims 6,7 and 10-14 were rejected as being unpatentable under 35 USC 103(a) over Gretzinger et al. in view of Stumpf et al. (6,035,901). Applicant respectfully submits that this combination of references lacks recognition of the problem solved by the present invention in creating an elastomeric UV stabilized fabric. Both references are directed to fabrics for use in applications wherein the fabrics will not likely be exposed to high levels of ultraviolet irradiation such as that derived from direct sunlight. Stumpf et al. disclose a fabric for use in a seating surface designed for indoor furniture, while Gretzinger et al. disclose a furniture support material which is intended for use as an under layer to a surface fabric. Neither fabric is intended for use as a surface fabric which may be exposed to high levels of ultraviolet irradiation as is the fabric

of the present invention. Thus, the references, without recognition of the problems associated with fabric exposed to high levels of ultraviolet irradiation, cannot teach or motivate one to modify the references to create a textile comprising a first set of yarns, wherein the first yarns comprise monofilament elastomeric UV stabilized yarn, and a second set of yarns, wherein the second yarns comprise textured polyester yarns with an elastomeric base component, and wherein the elastomeric base component is stabilized against UV irradiation. Thus, Applicant respectfully submits that since the combination of references fails to recognize or solve the problems associated with fabrics exposed to high levels of UV irradiation, a case for prima facie obviousness has not been established. Applicant respectfully requests that the rejection be withdrawn.

Claims 6,7 and 10-14 were rejected as being unpatentable under 35 USC 103(a) over Stumpf et al. in view of Gretzinger et al. Applicant reiterates the same considerations mentioned above and Applicant again respectfully submits that the combination of references fail to recognize the problem associated with surface fabric exposed to high levels of ultraviolet irradiation such as intended for use in automotive upholstery. Applicant contends that the references do not teach or motivate one to modify the references to create a textile comprising a first set and a second set of yarns wherein both sets of yarns are elastomeric and both sets of yarns are stabilized against UV irradiation as claimed by Applicant. Thus, Applicant respectfully submits that since the combination of references fails to recognize or solve the problems associated with fabrics exposed to high levels of UV irradiation, a case for prima facie obviousness has not been established. Applicant respectfully requests that the rejection be withdrawn.

Claims 6, 7 and 10-14 were rejected as being unpatentable under 35 USC 103(a) over McLarty, III (5,855,991) in view of Gretzinger et al. Applicant again reiterates the same considerations mentioned above and Applicant again respectfully submits that the combination of references fail to recognize the problem associated with surface fabric exposed to high levels of ultraviolet irradiation such as that intended for use in automotive upholstery. McLarty, III discloses a support fabric typically intended for indoor use, for example, in wheel chairs and hospital beds, while Gretzinger et al. disclose a furniture support material which is used as an under layer to a surface fabric. Neither fabric is typically intended for use as a surface fabric which may be exposed to high levels of ultraviolet irradiation as is the fabric of the present invention. Thus, the references, without recognition of the problems associated with ultraviolet irradiation, cannot teach or motivate one to modify the references to create a textile comprising

a first set of yarns, wherein the first yarns comprise monofilament elastomeric UV stabilized yarn, and a second set of yarns, wherein the second yarns comprise textured polyester yarns with an elastomeric base component, and wherein the elastomeric base component is stabilized against UV irradiation. Thus, Applicant respectfully submits that since the combination of references fails to recognize or solve the problems associated with fabrics exposed to high levels of UV irradiation, a case for prima facie obviousness has not been established. Applicant respectfully requests that the rejection be withdrawn.

In view of the above amendments and remarks, it is respectfully requested that claims 6,7 and 10-14 be allowed and that the application be passed to issue.

Respectfully requested,

July 29, 2002

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Serial No. 09/224,980

Version with markings to show changes mad :

7. (Amended) The textile according to Claim 6, wherein said [second] first yarns comprise a bicomponent, core sheath yarn, and wherein said sheath component is characterized by a melting point which is at least 30F below the melting point of the core component.

13.(Amended) The textile according to Claim [11] 6, wherein said [first] second yarns comprise a 2200 denier yarn.

14.(Amended) The textile according to Claim [11] 13, wherein the weave density of said second yarn set is about 20 picks per inch.